ter on which the judgment is rendered. *Pico* v. *Cohn,* 91 Cal. 129, 25 Pac. 970, 27 Pac. 537, 25 Am. St. Rep. 159, 13 L. R. A. 336; *Gilter* v. *Russian Co.,* 124 App. Div. 273, 108 N. Y. Supp. 793; *Camp* v. *Ward,* 609 Vt. 286, 37 Atl. 747, 64 Am. St. Rep. 929; *Donovam* v. *Miller,* 12 Ida. 600, 88 Pac. 82, 9 L. R. A. (N. S.) 524. Accordingly, false swearing or perjury is not such extrinsic fraud as will justify the setting aside of a judgment obtained thereby. *Graves* v. *Graves,* 132 Iowa 199, 109 N. W. 707, 10 L. R. A. (N. S.) 216, 10 Ann. Cas. 1104. See *Tovey* v. *Young,* Prec. Ch. 193. Perjury is intrinsic fraud and, though it may be fraud in obtaining the judgment, it does not prevent an adversary trial. *United States* v. *Throckmorton, supra; Mottu* v. *Davis,* 103 N. C. 160, 69 S. E. 63. See POMEROY, EQUITABLE REMEDIES, 3 ed., § 656.

The rule may seem harsh, but public policy demands that there be an end to litigation, even though there be an occasional miscarriage of justice. *Maryland Steel Co.* v. *Marney,* 91 Md. 360, 46 Atl. 1077; *Zeitlin* v. *Zeitlin,* 202 Mass. 205, 88 N. E. 763; *Pico* v. *Cohn, supra.* Many other grounds have been advanced as justifications for this rule. Thus, that a judgment is the highest type of evidence and should not be contradicted. *Greene* v. *Greene,* 2 Gray (Mass.) 361, 61 Am. Dec. 454. And again, that a judgment debtor has his opportunity at the trial and he must be prepared to meet the questions arising, especially when he knew by the pleadings the nature of the facts to be established. *Pico* v. *Cohn, supra; Campbell* v. *Thacher Bros. Banking Co.* (Wash.), 151 Pac. 986; *Young* v. *Lindquist,* 126 Minn. 414, 148 N. W. 455. But this reason is said not to apply when a decree of a court of equity is assailed. See *Graver* v. *Faurot* (C. C. A.), 76 Fed. 257.

Even though the successful party admits the perjury, equity will not interfere, since the admission merely goes to the character of the proof; and to engraft such an exception would render judgments precarious. *Steel* v. *Culver,* 157 Mich. 344, 122 N. W. 95. But, if the successful party or a witness on his behalf is convicted of perjury, many authorities hold that, as the danger of prolonging litigation indefinitely no longer exists, relief should be granted. See *Maryland Steel Co.* v. *Marney, supra; Tovey* v. *Young, supra; Moore* v. *Gulley,* 144 N. C. 81, 56 S. E. 681, 10 L. R. A. (N. S.) 242. Some courts also grant relief, where evidence of the successful party's perjury was discovered after the judgment was rendered, but though no lack of diligence of the complainant's part. See *Boring* v. *Ott,* 138 Wis. 260, 119 N. W. 865, 19 L. R. A. (N. S.) 1080. However, if the perjury relate directly to the court's jurisdiction and not simply to the evidence upon the issue tried, the judgment will be set aside in all jurisdictions. *Edson* v. *Edson,* 108 Mass. 590; *Keyes* v. *Brackett,* 187 Mass. 306, 72 N. E. 986. See *United States* v. *Throckmorton, supra.*

NEGLIGENCE—INJURIES TO CHILDREN—ATTRACTIVE NUISANCE DOCTRINE.—While trespassing in the defendant's factory, the plaintiff's intestate, a boy of thirteen years, was killed by falling down an elevator shaft. The plaintiff sought to recover under the doctrine of attractive nuisance. *Held,* the defendant is not liable. *Nelson* v. *Burnham & Morrill*

Co. (Me.), 95 Atl. 1029. For discussion of principles involved, see 2 VA. L. REV. 223.

RAILROADS—SPECIFIC PERFORMANCE—CONTRACTS TO MAINTAIN A DEPOT.—In consideration of a grant of a right of way and depot grounds, the defendant covenanted to erect and maintain thereon a depot for the accommodation of the general public. The depot was accordingly erected and operated for a short period, when it was discontinued. The plaintiff brought suit to compel specific performance of the covenant. *Held,* specific performance is decreed, so long as its enforcement is not inconsistent with the duties owed by the defendant to the general public or unduly burdensome to the defendant. *Harper* v. *Virginian Ry. Co.* (W. Va.), 86 S. E. 919.

Specific performance of contracts may not be invoked *ex debito justitiæ,* but rests peculiarly within the sound discretion of the court. *Marble Company* v. *Ripley,* 10 Wall. 339; *Port Clinton R. R. Co.* v. *Cleveland & Toledo R. R. Co.,* 13 Ohio St. 544; *Ramsey* v. *Gheen,* 99 N. C. 215, 6 S. E. 75; *Conger* v. *New York, W. S. & B. Ry. Co.,* 120 N. Y. 29, 23 S. E. 983.

It is unanimously held that an agreement by a railroad company to locate a depot at a designated point, which also prohibits the location of others within prescribed limits is void *per se,* as violative of public policy. *Marsh* v. *Fairbury & Northwestern R. R. Co.,* 64 Ill. 414, 16 Am. Rep. 564; *Williamson* v. *Chicago, R. I. & P. R. R. Co.,* 53 Iowa 126, 4 N. W. 870, 36 Am. Rep. 206. Likewise, contracts in which an officer or other person supposed to be influential with the railroad company agrees, for a consideration promised, to secure the location of a depot or terminus at a particular place, are held to be void. *Fuller* v. *Dame,* 18 Pick. (Mass.) 472; *Enid Right of Way & Townsite Co.* v. *Lile,* 15 Okla. 317, 82 Pac. 810. A contract to deed to the railroad company property for purposes of speculation, in consideration of the location of a depot on the promisor's land, has also been held void as tending to work a sacrifice of the public welfare to subserve private interests. *Pacific R. R. Co.* v. *Seeley,* 45 Mo. 212, 100 Am. Dec. 369. But a contract by which a railroad company binds itself, in return for a grant of a right of way or other valuable consideration, to erect and operate a depot is not void, as being in contravention of public policy. *Louisville, N. A. & C. Ry. Co.* v. *Sumner,* 106 Ind. 55, 5 N. E. 404, 55 Am. Rep. 719; *Atlanta & W. P. R. R. Co.* v. *Camp,* 130 Ga. 1, 60 S. E. 177, 124 Am. St. Rep. 151. And specific performance will be decreed in such cases, unless other public interests have since intervened or the contract is otherwise illegal, although the performance of the contract require the doing of continuous acts, involving skill and judgment. *Murray* v. *Northwestern R. R. Co.,* 64 S. C. 520, 42 S. E. 617; *Taylor* v. *Florida East Coast Ry. Co.,* 54 Fla. 635, 45 South. 574, 127 Am. St. Rep. 155, 16 L. R. A. (N. S.) 307. See, also, *Atlanta & W. P. R. R. Co.* v. *Camp, supra.* But, if it appear that the interests of the public demand that the contract be not performed, or further performed, specific performance will be denied. *Texas & Pacific Ry. Co.* v. *Marshall,* 136 U. S. 393; *Conger* v. *New York, W. S. & B. Ry. Co., supra.*